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DEC 3 1999

No. 99-954

In The

# Supreme Court of the United States

WALTER GEORGE,

*Petitioner,*

v.

NATIONAL ASSOCIATION OF LETTER CARRIERS, AND ITS LOCAL BRANCH #1037,

*Respondents.*

**On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit**

## SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI


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**IN THE UNITED STATES DISTRICT COURT**
**FOR THE WESTERN DISTRICT OF TEXAS**
**MIDLAND/ODESSA DIVISION**

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| WALTER GEORGE, | § | |
| | § | |
| Plaintiff | § | MO-97-CA-002 |
| v. | § | |
| | § | |
| NATIONAL ASSOCIATION OF LETTER CARRIERS, and its LOCAL BRANCH #1037, | § | |
| | § | |
| | § | |
| | § | |
| Defendants | § | |

**ORDER GRANTING DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT**

(Filed March 23, 1998)

On this day the court considered the Motions for Summary Judgment filed by Defendants. Defendant National Association of Letter Carriers (NALC) filed its Motion to Dismiss, or in the Alternative for Summary Judgment on December 19, 1997; Defendant Local Branch #1037 (Local Branch) filed its Motion for Summary Judgment on December 31, 1997. A hearing was conducted in connection with these matters on February 12, 1998. After due consideration of the submissions and arguments of the parties, the court is of the opinion that the Motions should be GRANTED.

**STANDARD OF REVIEW FOR SUMMARY JUDGMENT**

Rule 56(c) provides that "[summary judgment] shall be rendered forthwith if the pleadings, depositions,

answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(c). A party seeking summary judgment bears the initial burden of informing the district court of the basis for the motion, and identifying those portions of the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, which the moving party believes demonstrate the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 325, 106 S.Ct. 2548, 2554, 91 L.Ed.2d 265 (1986); *Meadowbriar Home for Children, Inc. v. G.B. Gunn*, 81 F.3d 521, 533 (5th Cir. 1996). The moving party has the burden of showing that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. *Willis v. Roche Biomedical Lab., Inc.*, 61 F.3d 313, 315 (5th Cir. 1995). A dispute about a material fact is "genuine" if the evidence is such that a reasonable jury could return a verdict for the non-moving party. *Anderson v. Liberty-Lobby, Inc.*, 477 U.S. 242, 248, 106 S.Ct. 2505, 2510, 91 L.Ed.2d 202 (1986); *Bodenheimer v. PPG Indus., Inc.*, 5 F.3d 955, 956 (5th Cir. 1993).

Once the movant carries this burden, the burden shifts to the nonmovant to show the existence of a genuine issue for trial. *Celotex*, 477 U.S. at 323-26, 106 S.Ct. at 2553-54; *Matsushita Electric Indus. Co. v. Zenith Radio*, 475 U.S. 574, 585-87, 106 S.Ct. 1348, 1355-56, 89 L.Ed.2d at 538 (1986). A party opposing a properly supported motion for summary judgment may not rest upon mere allegations or denials of his pleading, but must set forth specific facts

showing the existence of a genuine issue for trial. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 256-57, 106 S.Ct. 2505, 2514-15, 91 L.Ed.2d 202 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Anderson*, 477 U.S. at 248, 106 S.Ct. at 2510. In considering a motion for summary judgment, the district court must view the evidence through the prism of the substantive evidentiary burden. *Anderson*, 477 U.S. at 254-56, 106 S.Ct. at 2513-14. "If the record, viewed in this light, could not lead a rational trier of fact to find" for the nonmovant, summary judgment is proper. *Kelley v. Price Macemon, Inc.*, 992 F.2d 1408, 1413 (5th Cir. 1993), *cert. denied*, 510 U.S. 1043, 114 S.Ct. 688, 126 L.Ed.2d 656 (1994) (citing *Matsushita*, 475 U.S. at 577-78, 106 S.Ct. at 1351). On the other hand, if "the factfinder could reasonably find in [the nonmovant's] favor, then summary judgment is improper." *Id.* (citing *Anderson*, 477 U.S. at 249-51, 106 S.Ct. at 2511). Finally, even if the standards of Rule 56 are met, a court has discretion to deny a motion for summary judgment if it believes that "a better course would be to proceed to a full trial." *Anderson*, 477 U.S. at 255-56, 106 S.Ct. at 2514. *Accord Veilion v. Exploration Services, Inc.*, 876 F.2d 1197, 1200 (5th Cir. 1989); 10A C. WRIGHT, A. MILLER & MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE § 2728 (1983).

## FACTUAL BACKGROUND

Plaintiff Walter George was employed simultaneously, and legally, by Brookfield Uniforms and the United States Post Office. For Brookfield, Plaintiff worked as a regional salesman selling postal uniforms to postal

employees in the Midland/Odessa area. For the Post Office, Plaintiff was occasionally hired as a consultant advising the Postal Service on operational improvements. His duties for the Postal Service included inspecting letter carrier routes and otherwise looking for ways to increase efficiency.

Plaintiff was conducting inspections at the Amarillo Jordan Station when this dispute arose. Plaintiff made arrangements with the Postal Service to take one week off per month to take care of his Brookfield responsibilities. About three weeks into the Jordan Station review, Plaintiff returned to Midland for one week. During his absence, letter carriers in Amarillo learned that he was also a Brookfield sales representative for Midland/Odessa.

The letter carriers were unhappy to learn of Plaintiff's dual employment. Plaintiff's review of the Amarillo Jordan Station required him to submit weekly written reports of his findings. These reports included his view that the letter carriers performed their tasks with "sloth" and "sloppiness." Plaintiff was perceived as an opponent and member of management rather than a fellow employee. The letter carriers found it unacceptable that Plaintiff was "posing as a friend of postal workers in the Midland/Odessa area" while "acting hostile to them in Amarillo."

During the next three union membership meetings, Plaintiff's dual employment was a topic of conversation. In April, 1996, the Local Branch contacted Phil Hampton, the Brookfield district area manager, to inform him of

what they perceived as an unacceptable conflict of interest. Mr. Hampton agreed to look into the matter. He then called Plaintiff and asked Plaintiff to sign a letter stating that he would no longer do contract work for the Postal Service; Plaintiff refused to sign such a letter.

At a June 11, 1996, membership meeting, the Local Branch passed a motion to write to the letter carriers in the area where Plaintiff sold uniforms to inform them of Plaintiff's dual employment and to ask them not to purchase uniforms from him. On June 18, Hampton met with the letter carriers to dissuade them from sending the letter, and to prevent the motion from being published in the newsletter. Prior to the June 18 meeting, Hampton phoned Plaintiff and apprised him of the situation. Hampton expressed a desire to attend the meeting out of fear of a possible boycott of Brookfield Uniforms.

It is the normal practice of the Local Branch to approve the minutes of the last monthly meeting at the beginning of the next monthly meeting. It is also a normal practice of the Local Branch to publish the minutes of each monthly meeting in a monthly bulletin, which is circulated to other branches and to the NALC. Hampton feared that the appearance of the motion in the monthly bulletin could lead to widespread boycotts, though there is no evidence that the Local Branch intended to send letters to any letter carriers other than those in the Midland/Odessa area. The maker of the motion agreed to have the motion expunged from the minutes if Plaintiff ceased holding both jobs. Subsequently, Hampton phoned Plaintiff and left a message on his answering machine, terminating their relationship. Although this fact is in dispute, the court accepts as true for summary

judgment purposes that Hampton fired Plaintiff because he feared a national boycott of Brookfield Uniforms.

After the instant lawsuit was filed, the Local Branch requested litigation support from the NALC, who refused to give it. The president of the Local Branch sent a letter to the NALC, stating at one point, "You ask us to refrain from purchasing products for similar tactics, but are unwilling to back our actions." *Exhibit 20,* Plaintiff's Brief in Support. In his response letter, Vincent Sombrotto, President of the NALC, wrote, "Please understand that my decision [to refuse litigation support] does not turn on whether the Branch did anything wrong. To the contrary, I assume that the Branch acted properly and will be exonerated by the court. The issue is whether the NALC should provide legal assistance to a Branch that has been named in a lawsuit through no fault of the National Union." *Exhibit 21,* Plaintiff's Brief in Support.

Prior to Plaintiff's termination, Hampton had no discussions with any agent of the NALC. At no point in his conversations was Hamption ever told that the NALC was involved. It was not until after the commencement of the instant lawsuit that the NALC became aware of Plaintiff's relationship with Brookfield and the actions taken by the Local Branch. The Local Branch, an autonomously functioning body, did not require the NALC's approval to send notices to letter carriers in Midland/Odessa about Brookfield.

## DISCUSSION

Plaintiff alleges that the Local Branch's threat of a consumer boycott violated Section 8(b)(4) of the National

Labor Relations act, 29 U.S.C. § 158(b)(4), and further constituted a tortious interference with his employment relationship at Brookfield under Texas state law. Plaintiff alleges that the NALC is also liable under agency principles for the actions of the Local Branch. The court will take up each of these arguments in turn.

## *I. NALC Liability for the Actions of the Local Branch*

A national union is not automatically liable for all of the tortious actions of its local affiliates. *Carbon Fuel Co. v. UMWA*, 44 U.S. 212, 217-18 (1979); *UMWA v. Coronado Coal Co.*, 259 U.S. 344 (1922); *U.S. Steel Corp. v. UMWA*, 598 F.2d 363, 366-67 (5th Cir. 1979). The parties, in their briefs, acknowledge that the NALC can only be held liable for the actions of the Local Branch under "common law agency principles." *Bache v. American Tel. & Tel.*, 840 F.2d 283, 290 n.3 (5th Cir. 1988). Therefore, the court looks to whether the NALC gave the Local Branch actual authority to act on its behalf; whether third parties reasonably believed that the Local Branch had apparent authority to act on the NALC's behalf; and finally, whether the NALC subsequently ratified actions of the Local Branch that were taken on the NALC's behalf. *See Karl Rove & Co. v. Thornburgh*, 39 F.3d 1273, 1296 (5th Cir. 1994).

### *A. Actual Authority*

"Authority" is the power of the agent to affect the legal relations of the principal "by acts done in accordance with the principal's manifestations of consent to

him." Restatement 2d (Agency) Ch. 1 § 7. Actual authority to act on one's behalf includes both express and implied authority. "Express authority exists 'where the principal has made it clear to the agent that he wants the act under scrutiny to be done. . . . Implied authority, however, exists where there is no proof of express authority, but appearances justify a finding that in some manner the agent was authorized; in other words, there is circumstantial proof of actual authority." *Pasant v. Jackson Nat. Life Ins. Co.*, 52 F.3d 94, 97 (5th Cir. 1995).

There is no evidence that the NALC expressly authorized the Local Branch to threaten to boycott, or to boycott, Brookfield on behalf of the NALC. The NALC was not aware of the Local Branch's actions until after the lawsuit was filed. *Swaim Dep.* at 91; *Mullins Dep.* at 18-19. The summary judgment evidence indicates that, at best, the NALC was aware that the Local Branch did not appreciate the hiring of consultants to review the Jordan Station; but the NALC was not aware of the specific problems with Plaintiff that caused the Local to act as it did. *Swaim Dep.* at 107.

Plaintiff asserts that the Local Branch had implied actual authority to act on behalf of the NALC. He relies on the Steve Swaim letter to Vincent Sombrotto, in which Swaim says, "You ask us to refrain from purchasing products for similar tactics, but are unwilling to back our actions." Plaintiff interprets this to mean, "You want us to engage in such secondary activities, but then you refuse to provide us with litigation support when we get sued for those activities." Plaintiff also refers to the "openness and shamelessness" of the threat to boycott as belying

"any notion that the local thought the NALC might disapprove." Finally, Plaintiff argues that the "NALC had produced no evidence that its local may have *unreasonably* formed the belief that its parent union wanted it to engage in such coercive secondary activity."

Plaintiff's evidence indicates that both the NALC and the Local Branch believed that the local's actions were consistent with the law. However, Plaintiff's evidence does not create a fact issue as to whether the Local Branch believed that it was acting *on behalf of* the NALC. The "openness and shamelessness" of the Local Branch's actions does not lead to an inference that the Local's actions were taken on behalf of the NALC. Plaintiff asks the court to focus on the phrase "[y]ou ask us to refrain from purchasing products for similar tactics," to infer that the Local Branch believed that it was acting as the NALC's agent when it threatened a regional boycott of Brookfield. However, the second half of the sentence is of equal importance: "but are unwilling to back *our actions.*" Moreover, other parts of the letter indicate that Steve Swaim felt that it was the Local Branch that had acted, not the Local Branch on behalf of the NALC. "No one has even asked what happened or what actions our Branch took in this matter. . . . We feel like we are being separated from our national organization for standing up for our beliefs." The letter, while asking for the support of the NALC in contesting the lawsuit, never states that the Local Branch believed it had the power to bind the NALC based on its conduct. The references to "actions our Branch took" and "standing up for our beliefs" indicate that the Local Branch contemplated that its actions were taken in its own interests, not on behalf of the NALC. The

Local Branch President, Steve Swaim, testified in his deposition that he did not consult the NALC because it was his understanding that the local union could organize a boycott on its own. *Swaim Dep.* at 108.

Based on the summary judgment evidence, the court finds that movant has carried its burden of showing that no genuine issue of material fact exists as to whether the NALC expressly or impliedly authorized its Local Branch to act on its behalf when the Local Branch threatened to boycott Brookfield Uniforms.

2. *Apparent Authority*

"Apparent authority operates only when it is reasonable for the third person to believe the agent is authorized and the third person actually believes the agent is authorized." *Omnitech Intern., Inc. v. Clorox Co.*, 11 F.3d 1316, 1329 (5th Cir. 1994) (quoting *Tedesco v. Gentry Dev. Corp., Inc.*, 540 So.2d 960, 963 (La. 1989).

Though the issue of whether a third party could reasonably believe that the Local Branch was authorized to act on behalf of the NALC is an open question, the court finds that Plaintiffs have produced no evidence that Phil Hampton actually did believe that the Local Branch was acting on behalf of the NALC. In the audiotaped conversation between Phil Hampton and Walter George, Hampton explains at length his reasons for terminating Plaintiff. *Exhibit 15* at pp. 8-19, Plaintiff's Brief in Support. During his rendition of the events in Amarillo, Hampton does not mention the NALC, nor does he ever state that he believes that the Local Branch is acting on

behalf of the NALC. In fact, Hampton's service as a union advocate for the post office for seven years is a further indication that he was familiar with the ability, or lack thereof, of the national union to control the Local Branch. Towards the end of his conversation with George, Hampton makes clear that the focal point of these events was a few "rabble rousers" in Amarillo, Texas. *Exhibit 15* at p. 18, Plaintiff's Brief in Support ("And that's Amarillo, Texas, and I'm the type individual that never forgets, and I will never forget what they did. I said, they caused me to get rid of an employee in my opinion, even though he is an independent representative and I don't have the right to tell him what to do . . . ") Although Hampton feared that word of the Local Branch's actions would leak out just prior to the National Convention, there is only evidence that Hampton believed that it was the Local Branch that was acting; there is no evidence to indicate that Hampton believed that the Local Branch was acting on behalf of the NALC.

The court finds that no genuine issue of material fact exists with respect to Hampton's subjective, actual belief that the Local Branch was threatening to boycott Brookfield on behalf of the NALC.

3. *Ratification*

"Ratification is the affirmance of a prior act which did not bind [a person] but which was done professionally on [the person's] account, whereby the act, as to some or all persons, is given effect as if originally authorized by him." Restatement 2d (Agency), Ch. 4 § 82. At

issue are the affirmative acts of the principal, once the principal learns of the agent's conduct, ratifying the agent's conduct on behalf of the principal.

Plaintiff relies on the exchange of letters between Steve Swaim and Vincent Sombrotto to show ratification. However, Sombrotto states in his letter that he is denying the Local Branch's request for representation on the grounds that the "issue is whether the NALC should provide legal assistance to a Branch that has been named in a lawsuit through no fault of the National Union." Exhibit 21, Response. The import of this letter is that the NALC has rejected the Local Branch's request for representation because the NALC did not feel that the Local Branch was acting on behalf of the NALC.

Plaintiff argues that the NALC's silence and refusal to criticize to the actions of the Local Branch upon learning of its conduct also gives rise to an inference that the NALC ratified the Local Branch's conduct. However, the NALC's silence on this issue cannot be determinative. *See U.S. Steel Corp.*, 598 F.2d at 367 (finding that national and international unions' inaction did not imply endorsement of local's conduct where the underlying issue "bore no relation to union organization or any other particular interest of either entity").

No genuine issue of material fact exists as to the ratification issue; the court finds that summary judgment evidence does not exist to support a finding that the NALC ratified the acts of its Local Branch. Because the court finds that the NALC did not confer actual or apparent authority on the Local Branch to act on its (NALC's) behalf, and because the NALC did not ratify the actions

of the Local Branch, the NALC's Motion for Summary Judgment should be GRANTED.

### *II. The 8(b)(4) Activity*

As mentioned earlier, the material facts regarding the Local Branch's interactions with Phil Hampton and Brookfield Uniforms are not in dispute. Both parties agree that the Local Branch discussed the matter internally for several months and then passed a motion to write a letter to Midland/Odessa letter carriers to inform them of their dispute with Walter George and Brookfield, and to ask them not to purchase uniforms from Brookfield. Both parties agree that the minutes, including a record of the motion, was likely to be circulated in a newsletter to letter carriers across the nation. Finally, for purposes of this motion, the court assumes that Phil Hampton fired Plaintiff under threat of a boycott.

§ 8(b)(4) of the NALC, codified as 29 U.S.C. 158(b)(4), limits the abilities of unions to apply economic pressure on neutral employers who are not directly affiliated with a union's primary labor dispute. A labor organization is prohibited from threatening, coercing, or restraining a person in an attempt to force the person to cease doing business with another person. The section does not apply to primary disputes between a labor organization and its employer. 29 U.S.C. 158(b)(4). Plaintiff argues that the "issue of whether the union's secondary activities directed at Brookfield were 'coercive' or 'merely informative and persuasive' is a matter for the jury." *See Brown & Root, Inc. v. Louisiana State AFL-CIO*, 10 F.3d 316, 321 (5th Cir. 1994).

The initial question for the court, however, is whether the Local Branch's actions are protected by the First Amendment. If the court finds that the union's activities are protected by the First Amendment, then the Local Branch's actions could not be construed as threatening or coercing as a matter of law. *See DeBartolo v. Fla. Gulf Coast Trades Council*, 485 U.S. 568, 575 (1988) ("where an otherwise acceptable construction of a statute would raise serious constitutional problems, the Court will construe the statute to avoid such problems unless such construction is plainly contrary to the intent of Congress").

The leading case on the tension between the First Amendment and the § 8(b)(4) term "threaten, coerce or restrain" is the Supreme Court's unanimous decision in *DeBartolo*. In that case, the Supreme Court held that § 8(b)(4) could not be read to limit the ability of labor organizations to either boycott or attempt to peacefully persuade others to boycott a neutral employer. The Court distinguished "peaceful persuasion of customers" of a neutral employer via hand billing from its prior rulings which held *picketing* of neutral employers to be unlawful. The former conduct could not be defined as "coercive activity" within the meaning of the NLRA not only because it is protected by the First Amendment, but also because the Court found no "clear indication that Congress intended § 8(b)(4)(ii) to proscribe peaceful handbilling, unaccompanied by picketing, urging a consumer boycott of a neutral employer." *DeBartolo*, 485 U.S. at 583-84.

Plaintiff contends that Defendant's conduct fits in with a recent Fifth Circuit opinion's definition of coercive

activity. *See Brown & Root*, 10 F.3d at 320 (noting that coercion included "non-judicial acts of a compelling or restraining nature"). The Plaintiff argues that "the threat of a boycott that could very well have destroyed Brookfield" cannot be considered "mere persuasion." *Brown & Root*, however, also makes clear that § 8(b)(4) was intended to prohibit "consumer boycotts of neutral employers carried out *by picketing*." *Brown & Root* 10 F.3d at 327 (emphasis added). Both *DeBartolo* and *Brown & Root* hold that § 8(b)(4) was intended to prevent a union from physically intimidating a person or group into ceasing to do business with a neutral employer. Use of handbills, according to the Supreme Court, is lawful and cannot be considered § 8(b)(4) coercive because they "depend entirely on the persuasive force of the idea." *DeBartolo*, 485 U.S. at 580 (quoting "*Safeco*, 447 U.S. at 619 (Stevens, J., concurring)).

In the present case, the Local Branch's motion, and any letters that would have been sent, involve even less of an element of physical presence to persuade than handbills. Put another way, a letter to postal carriers in the Midland/Odessa area would have relied even more on the "persuasive force of the idea" than if the Amarillo workers had come to Midland/Odessa and tried to handbill the same carriers. Since the First Amendment protects the latter conduct, it must also necessarily protect the former conduct. *See Storer Communications, Inc. v. National Ass'n of Broadcast Employees and Technicians, AFL-CIO, et al.*, 854 F.2d 144, 145 (6th Cir. 1987) (finding that "handbilling, letters, phone calls and visits are permitted under *DeBartolo*"); *Ramada, Inc.*, 302 N.L.R.B. 919 (1991)

(§ 8(B)(4) picketing publicity urging a consumer boycott of neutral employers under *DeBartolo*).

*DeBartolo* and *Brown & Root* require the court to find that the Local Branch's conduct did not constitute a violation of § 8(b)(4) as a matter of law. Because the boycott as well as the means chosen to publicize the boycott was lawful, the threat to engage in those means must also be lawful. *See BE & K*, 90 F.3d at 1328 ("Threats or warnings that a union will engage in protected conduct such as hand billing . . . are not a violation of federal law, and are in fact protected by it") (citing *NLRB v. Servette, Inc.*, 377 U.S. 46, 54 (1964)).

Under *DeBartolo*, Plaintiff cannot contend that the Local Branch had no right to boycott Brookfield because of its contractual relationship with Plaintiff. Nor can Plaintiff contend that the Local Branch could not disseminate information about its boycott to consumers of Brookfield. The court finds that the Local Branch's decision to send letters to Midland/Odessa letter carriers and to publish that decision in its local newsletter, was peaceable and therefore covered by the First Amendment. The court finds no genuine issue of material fact on this issue, and therefore the court is of the opinion that the Local Branch's Motion for Summary Judgment should be GRANTED.

### *III. The State Law Tortious Interference Claims*

Both Defendants contend that, even if the Local Branch's conduct did violate § 8(b)(4), the NLRA preempts Plaintiff's state law claim for tortious interference with contractual relations. *See United Mine Workers v.*

*Gibbs*, 383 U.S. 715, 721 (1966) (holding that states may regulate union secondary conduct only where such activities are marked by "violence and imminent threats to the public order"); *BE & K Construction*, 90 F.3d at 1328.

The court need not reach the preemption issue. At the hearing on the Motions for Summary Judgment, the parties agreed that, under Texas law, an absolute defense to a tortious interference claim is the fact that the conduct is protected by federal or state law. *Texas Beef Cattle Co. v. Green*, 921 S.W.2d 203, 210 (Tex. 1996). Because the court finds that the Local Branch's conduct is protected by the First Amendment, the court finds that no genuine issue of material fact exists with respect to Plaintiff's tortious interference claims.

## CONCLUSION

The court finds insufficient evidence in the summary judgment record to support a jury finding that the actions of the Local Branch could be imputed to the NALC. The court further finds that, even if Plaintiff's allegations regarding the Local Branch's actions were true, the Local Branch's actions would still be protected under *DeBartolo* and the First Amendment. Finally, because the Local Branch's actions are protected by the First Amendment, Plaintiff's tortious interference claims must fail as a matter of law. For these reasons,

It is **ORDERED** that the Motion of the National Association of Letter Carriers to Dismiss, or in the Alternative for Summary Judgment be **GRANTED.**

It is **ORDERED** that the National Association of Letter Carriers, Local Branch #1037, Motion for Summary Judgment be **GRANTED**.

Signed this 23rd day of March 1998.

/s/ Royal Furgeson
ROYAL FURGESON
UNITED STATES
DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE WESTERN DISTRICT OF TEXAS**
**MIDLAND/ODESSA DIVISION**

| | | |
|---|---|---|
| WALTER GEORGE,<br>Plaintiff | § | |
| v. | § | MO-97-CA-002 |
| NATIONAL ASSOCIATION OF LETTER CARRIERS, and its LOCAL BRANCH # 1037,<br>Defendants. | § | |

**FINAL JUDGMENT**

(Filed Mar. 23, 1998)

On this day the court entered an Order Granting Defendants' Motions for Summary Judgment. The court now enters its Final Judgment in accordance with Rule 58 of the Federal Rules of Civil Procedure. Accordingly,

It is **ORDERED** that the Motion of the National Association of Letter Carriers to Dismiss, or in the Alternative for Summary Judgment, be **GRANTED.**

It is **ORDERED** that the Motion of the National Association of Letter Carriers to Dismiss, or in the Alternative for Summary Judgment, be **GRANTED.**

It is **ORDERED** that the National Association of Letter Carriers, Local Branch #1037, Motion for Summary Judgment, be **GRANTED.**

It is **ORDERED** that the Plaintiff takes nothing.

It is **ORDERED** that Plaintiff's Complaint be **DISMISSED WITH PREJUDICE.**

It is **ORDERED** that the parties bear their own cost of litigation.

It is **ORDERED** that all pending motions be **DENIED AS MOOT.**

Signed this 23rd day of March 1998.

/s/ Royal Furgeson
ROYAL FURGESON
UNITED STATES
DISTRICT JUDGE